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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Olivier Larcher

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BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

NGUYEN, CAM N

ART UNIT

PAPER NUMBER

1793

NOTIFICATION DATE

DELIVERY MODE

06/26/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/549,957	Applicant(s) LARCHER ET AL.	
	Examiner Cam N. Nguyen	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/27/09 (an amendment/response).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-45 is/are pending in the application.
- 4a) Of the above claim(s) 32-40 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-31, 41 and 43-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/27/09</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. The amendment filed on 03/27/09 has been made of record and entered. The specification has been amended. A new abstract has been provided. Claims 1-21 have been canceled. Claims 22, 25-31, & 41 have been amended. Claims 43-45 have been added.

Claims 22-45 are currently pending in this application.

Status of Withdrawn Claim(s)

2. Claims 32-40 & 42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/23/08.

Specification

3. The examiner has not checked the specification to the extent necessary to determine the presence of **all** possible minor errors (grammatical, typographical, and idiomatic). Cooperation of the applicant(s) is requested in correcting any errors of which applicant(s) may become aware of in the specification, in the claims and in any further amendment(s) that applicant(s) may file.

Applicant(s) is also requested to complete the status of the copending applications referred to in the specification by their Attorney Docket Number or Application Serial Number, **if any**.

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The status of the parent application(s) and/or any other application(s) cross-referenced to this application, **if any**, should be updated in a timely manner.

Claim Rejections - 35 USC § 102(b)

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-31, 41, & 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Aubert et al., hereinafter referred to as "Aubert '306", (US Pat. 6,214,306 B1).

Aubert '306 appears to teach the claimed composition having the claimed properties including temperatures, surface areas, and zirconium oxide contents (see col. 10, claim 1- col. 16, claim 84).

The limitation on “a maximum reducibility temperature of at most 500°C” and “...at most 400°C” in claims 22 & 43 are noted. It is inherent and expected that the same catalyst composition containing the same metal oxides and having the same surface area would possess the same maximum reducibility temperature properties as claimed. The disclosed catalyst composition would inherent comprise tetragonal phase because it is the same composition.

There is no patentable distinction seen between the claimed composition and that disclosed by the reference. Thus, the claims are anticipated by Aubert '306.

Response to Applicants' Arguments

5. The remarks filed on 03/27/09 have been fully considered, but not deemed persuasive for the following reasons.

Applicants argue, that “the reducibility/temperature measurements made on the compositions described in Aubert et al. have shown a maximum reducibility temperature of about 580oC. Such a maximum reducibility temperature clearly fails to anticipate the maximum reducibility temperature of at most 500oC required by claim 22” is noted. Examiner disagrees with Applicants for the reason that there is no evidence on the record or comparative data provided by Applicants showing that the catalyst compositions disclosed by Aubert et al. have a maximum reducibility temperature of about 580°C.

Furthermore, according to the Applicants, the term “reducibility” refers to the capacity of the composition to be reduced in a reducing atmosphere, and to be reoxidized in an oxidizing atmosphere, etc. If so, then the limitation on “a maximum reducibility temperature of at most 500°C” and “...at most 400°C” in claims 22 & 43 are recitations of the intended use of the claimed composition, and they do not change the chemical structure or composition of the claimed catalyst composition.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

7. Claims 22-45 are pending. Claims 22-31, 41, & 43-45 are rejected. Claims 32-40 & 42 are withdrawn due to nonelected (distinct) invention(s). No claims are allowed.

Contacts

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner CAM N. NGUYEN, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

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/C. N. N./

June 22, 2009